

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA,**

**NO. 18-CR-20282**

**vs.**

**HON. ARTHUR J. TARNOW**

**D-1 MASHARN FRANKLIN,**

**Defendant.**

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**SENTENCING MEMORANDUM OF THE UNITED STATES**

**I. Introduction**

Defendant Masharn Franklin had a good job with the City of Detroit for over twenty years. Instead of taking home an honest day's pay for an honest day's work, Franklin chose to use her position of trust to satisfy her greed by embezzling \$265,000 from the city over the course of two years. Franklin's crime undermines the public's confidence in its government employees. The Court should impose a sentence of two years imprisonment in order to recognize the seriousness of the offense, to impose just punishment, and to promote respect for the law.

## **II. ARGUMENT**

### **A. The Nature and Circumstances of Franklin's Crime (18 U.S.C. § 3553(a)(1))**

Ultimately, this case is about greed. It is about Franklin's greed, and her willingness to use her position of trust as an employee in the payroll department of the City of Detroit in order to steal money. Over the course of two years, Franklin engineered a scheme to embezzle \$265,000 from the city through fake garnishments. Franklin used the fake garnishments in the names of her relatives in order to steal money from the city and to deposit it in bank accounts held jointly between her and her relatives. Franklin then used some of the proceeds of her fraud to pay for a lavish wedding and honeymoon for herself in 2016. She then used additional proceeds of her theft to take cruises for herself and her family.

At the same time that Franklin was stealing hundreds of thousands of dollars from the city, Detroit was struggling to provide police, fire, and other services for its residents. Instead of providing streetlights or timely bus service, Franklin took money from her fellow citizens so that she could enjoy luxurious trips and parties. Although she was supposed to be serving the city's residents, Franklin chose to loot the city's treasury for her own personal enjoyment.

**B. Sentencing Guidelines Calculation for Franklin**

The undisputed sentencing guideline range in this case is 24 to 30 months. This includes a two-level enhancement for Franklin's abuse of a position of public trust. She also owes restitution of \$207,351.89 after \$58,000 in criminal proceeds was seized from one of her bank accounts.

**C. The Seriousness of Franklin's Crimes, Just Punishment, and Respect for the Law (18 U.S.C. § 3553(a)(2)(A))**

The City of Detroit is experiencing a period of renewal and renaissance. The city is on its way back to being a vibrant and functioning place. Franklin's embezzlement from the city harkens back to a time when certain city employees used their public positions to loot from their fellow citizens. The people of the city need to know that they can trust their government employees, and that their tax dollars are not being funneled away through fraud and abuse like Franklin's. A significant prison sentence is necessary to reflect the seriousness of Franklin's offense and to vindicate the rule of law in a once again flourishing city. The fact that Franklin's crime was discovered and prosecuted needs to be matched by a just punishment in order to demonstrate that Detroit is a functioning city moving forward.

**D. Deterring the Criminal Conduct of Others**  
**(18 U.S.C. § 3553(a)(2)(B))**

Imposing a significant prison sentence on Franklin also serves the important purpose of deterring public employees in this district from engaging in similar misconduct. *See* 18 U.S.C. § 3553(a)(2)(B). General deterrence has its greatest impact in white-collar cases, like this one, because these crimes are committed in a more rational and calculated manner than sudden crimes of passion or opportunity. *United States v. Peppel*, 707 F.3d 627, 637 (6th Cir. 2013) (quoting *United States v. Martin*, 455 F.3d 1227, 1240 (11th Cir. 2006)). As a federal judge in Chicago stated:

We need not resign ourselves to the fact that corruption exists in government. Unlike some criminal justice issues, the crime of public corruption can be deterred by significant penalties that hold all offenders properly accountable. The only way to protect the public from the ongoing problem of public corruption and to promote respect for the rule of law is to impose strict penalties on all defendants who engage in such conduct, many of whom have specialized legal training or experiences. Public corruption demoralizes and unfairly stigmatizes the dedicated work of honest public servants. It undermines the essential confidence in our democracy and must be deterred if our country and district is ever to achieve the point where the rule of law applies to all --- not only to the average citizen, but to all elected and appointed officials.

*United States v. Spano*, 411 F.Supp.2d 923, 940 (N.D. Ill. 2006).

In the past, this Court has expressed skepticism over the efficacy of general deterrence. This case has and will receive media attention. Were the Court to impose a lenient sentence on a city employee after she stole \$265,000 from her fellow citizens, the public and other city employees would get the message that

similar embezzlement and theft schemes may be worth the risk given the light punishment meted out to Franklin. Her crime was serious, and this Court needs to make it clear to other public employees that they risk significant punishment if they choose to steal from the public.

**E. Protecting the Public from Further Crimes by Franklin  
(18 U.S.C. § 3553(a)(2)(C))**

It appears unlikely that Franklin will re-offend after her experience in this case.

**F. Avoiding Sentencing Disparities Among Similarly  
Situated Defendants (18 U.S.C. § 3553(a)(6))**

Section 3553(a)(6) instructs courts to consider “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” That subsection “is concerned with national disparities among the many defendants with similar criminal backgrounds convicted of similar criminal conduct.” *United States v. Benson*, 591 F.3d 491, 505 (6th Cir. 2010). A court’s careful review of the guideline range “necessarily [gives] significant weight and consideration to the need to avoid unwarranted disparities.” *Gall v. United States*, 552 U.S. 38, 54 (2007). In fact, one of the “central reasons” for adopting the sentencing guidelines in the first place “was to ensure stiffer penalties for white-collar crimes and to eliminate disparities between white-collar sentences and

sentences for other crimes.” *United States v. Peppel*, 707 F.3d 627, 638-39 (6th Cir. 2013).

That national consensus for stiffer white-collar penalties has intensified in public corruption cases. In November 2004, the Sentencing Commission even amended the guidelines to increase the punishment in corruption cases. The Commission explained that “public corruption offenses previously did not receive punishment commensurate with the gravity of such offenses,” especially when compared with other white-collar crimes. U.S.S.G., App’x C, Vol. III, at 82 (Amendment 666).

This Court’s sentence in this white collar case involving a public employee should reflect the need to avoid disparities between such cases and other federal cases involving drugs and guns.

### **III. CONCLUSION**

Franklin engaged in serious criminal activity which caused a significant loss to the City of Detroit. Her conduct also further undermined the confidence of the community and the public in the integrity of city employees. Franklin brazenly stole

from the city and her fellow citizens over a period of years in a cold and calculated manner. The Court's sentence should impose just punishment upon her.

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Dated: August 16, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on August 16, 2018, I electronically filed the foregoing document with the Clerk of the Court using the ECF system.

I further certify that a copy of the document was served on counsel of record by email:

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